

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**December 21, 2001**

**RH-01015532**

**INITIAL STATEMENT OF REASONS**

**Accident Verification**

**INTRODUCTION**

Pursuant to California Insurance Code section 1861.02, subdivision (e), California Insurance Commissioner Harry Low (“Commissioner”) proposes amendments to California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, entitled “Rating Factors”. Specifically the Commissioner proposes to set forth the means by which an insurer may verify a driver’s driving record.

**NECESSITY OF REGULATION**

California Insurance Code Section 1861.02(c) provides that “[t]he absence of prior automobile insurance coverage, in and of itself, shall not be a criterion for determining eligibility for a Good Driver Discount policy, or generally for automobile rates, premiums, or insurability.” However, under California Insurance Code Section 1861.02(a), an insurer must base rates on a policyholder’s driving safety record. Accident information provided by a prior insurer is one way to verify an applicant’s driving safety record. But this information could potentially be used, in effect, to impose a prior insurance requirement on new insurance applicants.

Nothing in the California Insurance Code or the Department’s regulations currently prohibit insurers from seeking verifiable accident or loss information. In fact, Title 10, California Code of Regulations, Section 2632.5(c)(1) defines driving safety record as the public record of traffic violation convictions and principally at-fault accidents determined in accordance with Section 2632.13. Sections 2632.13(f) and (g) permit insurers to investigate whether a driver was principally at fault in an accident, including seeking that information from another insurer.

However, insurers have begun to use these and other provisions in ways that arguably impose a “prior insurance” requirement on new applicants. For example, some insurers require that applicants provide written documentation from the applicant’s current insurer regarding prior accident history or a renewal offer from the applicant’s current insurer indicating accident record experience. Insurers have required applicants to have previously been insured with a subscribing loss underwriting exchange carrier, e.g., C.L.U.E.

Because some insurers are currently requiring verifiable driving record information from another insurer, consumers who lack prior insurance and seek coverage from one of those insurers do not receive the protections sought to be afforded by the voters when they enacted California Insurance Code Section 1861.02(c) as part of Proposition 103. Additionally, insurers not requiring accident information from a prior insurer claim that they are at a competitive disadvantage *vis-a-vis* insurers imposing such requirements.

The Commissioner proposes to amend California Code of Regulations, title 10, section 2632.13. The proposed amendment will prohibit insurers from requiring applicants provide written documentation from the insured's prior insurer and require them to accept the insured's certification of accident record experience.

## **IDENTIFICATION OF STUDIES**

There are no specific studies relied upon in the adoption of this regulation.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

Adoption of this regulation would not mandate the use of specific technologies or equipment.

## **ALTERNATIVES**

The Commissioner has not identified any reasonable alternative to carry out the purpose for which this regulation is proposed or that would be as effective and less burdensome to affected private persons or small businesses than the proposed regulations.

## **ECONOMIC IMPACT ON BUSINESS**

The Department of Insurance has made an initial determination that the adoption of this regulation does not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The types of businesses that this regulation concerns are insurers licensed to market personal automobile insurance in the State of California. Many insurers already allow driver record certification. Those insurers with rating guidelines that do not comply with the proposed regulation will have to file modifications to their existing class plans. Insurers regularly file modifications to their class plans in the course of doing business, and therefore, the changes required by this regulation will not be significant.